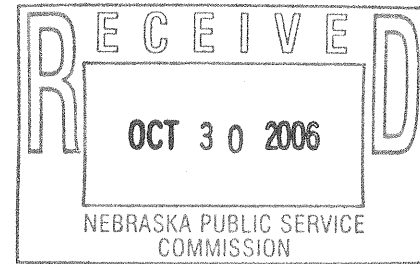


In the Matter of the Commission,) Application No. 911-026/
on its own motion, seeking to) PI-122
determine Enhanced Landline 911)
surcharge payment requirements)
for interconnected Voice Over)
the Internet Protocol Providers.)



Verizon¹ hereby submits its comments in response to the Commission's Order

In this proceeding, the Commission seeks guidance on understanding the scope of a recent state statute² as it pertains to providers of interconnected Voice over Internet Protocol (VoIP) services.³ In these comments, Verizon addresses the following Commission query:

As explained below, the answer to this question is “no”; under the statute, it is not permissible to impose such surcharges on wholesale service providers, or to require these firms to collect and remit them.

¹ These comments are being submitted by Verizon on behalf of its certificated affiliates and subsidiaries in Nebraska.

² The Emergency Telephone Communications Systems Act, Neb. Rev. Stat. § 86-420 et seq. (2006 Supp.) (Act).

³ An interconnected Voice over Internet protocol (VoIP) service is a service that: (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet protocol-compatible customer premises equipment (CPE); and (4) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network. 47 C.F.R. § 9.3.

protect the health, safety, and welfare of the people of Nebraska” throughout the state. Act, § 86-421. Verizon believes that important public safety programs such as 911 that benefit all citizens and visitors of the state should be funded through the state’s general revenues. Importantly, the Act authorizes a governing body to recover the costs of installing, maintaining and operating 911 service out of general funds, but also provides that these “may be supplemented by funds from the imposition of a service surcharge.” Act, §86-435 (1). To ensure that 911 programs are implemented throughout the state in a consistent, competitively equitable and technologically neutral manner, the Commission should urge governing bodies to rely solely on general funds to implement their 911 programs. If the various jurisdictions that are implementing 911 systems choose not to rely solely on their general funds, then it is critical that they establish competitively neutral funding mechanisms consistent with the language of the statute.

The legislation appears to be designed to ensure that all who have telephone service and can access 911 service should pay any applicable 911 surcharges. The statute provides that any 911 surcharges are to be paid by “service user[s],”⁴ and makes no exceptions. Consistent with its position that 911 programs should be financed through general funds, Verizon agrees with the concept that all who obtain or provide 911 service should contribute equitably to support its operation.⁵

The statute requires each “service user” to pay the applicable surcharge in each area where it receives 911 service. Act, § 86-436 (1). The “service supplier,” in turn, has

⁴ Act, § 86-436 (1). A service user is defined as “any person who is provided local exchange access line service in this state.” Act, § 86-434.

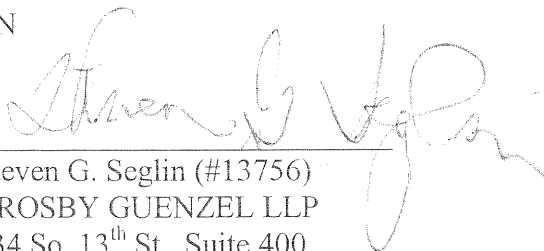
⁵ While the FCC has indicated that interconnected VoIP providers may be required to contribute to the funding of 911 service, Verizon does not concede that VoIP services are generally subject to state regulation.

the “duty ... to bill a service surcharge to a service user,”⁶ and to remit those surcharges to the governing body. Act, § 86-437 (1). Based on this construct, it is not appropriate to impose any obligations on wholesale providers. As the Act contemplates, the “service user” and his or her service provider have a direct relationship, and the latter can readily collect any applicable surcharge from its customer, the service user. Because wholesale providers do not have any direct relationship with the end user, they are not in a position to bill service users for the surcharge, contrary to the expectation of the statute. For these reasons, the construct and language of the Act do not permit the imposition of 911 surcharges on wholesale providers, and the Commission should so conclude.⁷

Dated: October 30, 2006

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⁶ Act, § 86-436 (2).

⁷ To the extent a wholesale provider and an interconnected VoIP provider voluntarily agree which entity will pay various fees or surcharges, those contractual agreements should be permitted but, based on the terms of the Act, those payment arrangements cannot be mandated or regulated.